

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-9314-2024 in/and
CRM-A-306-2024 (O&M)
Date of Decision: April 16, 2024

GURPREET KAUR

...Applicant/Appellant

Versus

JAGMIT SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nitesh Singla, Advocate for the applicant/appellant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-9314-2024

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 48 days in filing the accompanying application under Section 378(4) Cr.P.C.

For the reasons mentioned in the application seeking condonation of delay, the same is allowed and the delay of 48 days in filing the said application/appeal is condoned.

CRM-A-306-2024

1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgment of acquittal dated 20.10.2023 passed by learned Sub Divisional Judicial Magistrate, Baghapurana in complaint case No. COMI/13/2018 dated 30.04.2018 filed under Sections 406, 498-A of IPC, whereby, the respondents-accused were acquitted of the charges framed against them.

2. The facts, in brief, are that marriage of the applicant was solemnized with respondent no.1 on 17.04.2016. Respondents no.2 to 4 are the family members of respondent no.1. Out of the said wedlock, no issue was

CRM-9314-2024 in/and
CRM-A-306-2024 (O&M)

born. The parents of the applicant spent more than Rs.5,00,000/- on the marriage ceremony apart from the dowry articles given to the respondents. Soon after marriage, the attitude of the respondents turned hostile towards the applicant and they started harassing her for more dowry. Ultimately, in January, 2017, the respondents turned the applicant out of her matrimonial house after giving her beatings and even usurped the dowry articles including the gold ornaments of the applicant which were never returned. A complaint was made to the concerned police by the applicant on 14.08.2017 but due to the inaction of police, she filed the complaint (supra) against the respondents, wherein, they were acquitted of the charged framed against them under Sections 406 & 498A. Aggrieved, the applicant has approached this Court by way of the present petition.

3. I have heard the learned counsel for the applicant and carefully perused the record with his able assistance. It transpires that the applicant has been unable to adduce any medical evidence in support of her claim that she was beaten by the respondents. Further, the applicant alleged that she was turned out of her matrimonial house in January, 2017 but it transpires from the cross-examination of the applicant that respondents attended the marriage ceremony of her cousin sister in February, 2017. Further, in the complaint moved by the applicant to the concerned police on 14.08.2017, no such fact of her being thrown out of the matrimonial house has been mentioned by her. Also, the applicant and the witnesses examined by her, including her father as CW-2, have been unable to provide any proof of requisite source of income in order to support their claim that Rs.5,00,000/- was spent on the marriage ceremony. Further, the motorcycle alleged to have been given as dowry to respondent no.1 is in the name of the father of the applicant. All the aforesaid

CRM-9314-2024 in/and
CRM-A-306-2024 (O&M)

facts when seen in totality are sufficient to affirm the order under challenge in the present case.

4. Furthermore, the power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415).** A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit** and others CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

6. Pending application(s), if any, also stand(s) disposed of.

16.04.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |